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Intel appreciates the opportunity to comment on the agency's draft memorandum: "Guidance on Plantwide Applicability Limitation Provisions Under the New Source Review Regulations."

Intel is the largest manufacturer of semiconductors in the US, with multiple fabs and over 50,000 US employees, augmented by over 50,000 US contractors.
Intel has had a longstanding engagement with the U.S. Environmental Protection Agency on flexible air permitting, starting with an initial pilot project at our Aloha, OR fab and then our Project XL pilot at our Ocotillo, AZ site in the 1990's. Building on the XL experience, Intel was directly involved in the development of the Plantwide Applicability Limit (PAL) concept and worked closely with the agency on the creation of the PAL rules.

Intel has long seen flexible environmental compliance methods, such as PALs, as important regulatory innovations that can result in more cost-effective and efficient protection of the environment. The first paragraph of the draft guidance captures the key aspects of PALs and their value as air emissions management tools. PALs are particularly useful, both to permittees and permitting authorities, in instances where the permittees' business planning and air pollution control strategies are highly integrated. PALs also provide needed flexibility if the permittee operates in a business environment where changes in products and production technologies occur often and rapidly. Intel operates in such an environment. The ability to plan for compliance in a rapidly evolving business environment is critical to Intel.
PALs afford more certainty and an ability to act more quickly than one is able to do under the other Federal NSR compliance requirements. Permitting authorities are also finding that once PALs are established, there is more certainty and fewer analytic tasks associated with determining Federal NSR compliance.

However, PALs represent a substantial commitment by the permittee. The permittee must first determine the levels of emissions that can be approved as a PAL. The permittee must be prepared to commit to detailed emissions monitoring and reporting. Most importantly, the permittee must be confident that the facility's emissions will remain below the PAL limit. The PAL, at a minimum, is viewed as a ten-year commitment and even terminating at the end of ten years has its consequences. Therefore, the party seeking a PAL must be confident that compliance with the PAL can be achieved over the full range of future business scenarios.

This guidance is particularly helpful in allowing a party seeking a PAL to secure an acceptable permit and have more confidence in how the PAL will be treated once it is in place. This guidance will not eliminate

all PAL-related uncertainty but adherence to it by permitting authorities will make it easier for PAL seekers to assess risks and ultimately secure and benefit from PALs. In the spirit of general support, we would like to offer a few specific observations and points of emphasis:

- PAL Expiration – We appreciate the points made in the guidance about how to proceed when converting the PAL into non-PAL limits, if and when a PAL expires. We do take minor exception to one statement. In the guidance it says: "EPA believes that most sources that opt for a PAL intend to maintain and renew that PAL indefinitely." While that may be a permittees intent at the outset, there are a number of circumstances under which a PAL would need to be terminated (allowed to expire). One is the situation where the permittee and the permitting authority are not able to come to agreement on the level of the PAL upon renewal. Without adequate headroom for future operations, the PAL would have to expire even if the permittee wished it could be retained. The other circumstance would be an instance where the level and nature of business activities (and related emissions) at the site have changed sufficiently that the PAL is no longer necessary or useful.

On a separate point, the last paragraph in this section of the guidance is particularly helpful. Providing this clarity on the inapplicability of (r)(4), when a PAL expires, eliminates a particularly complicated area of concern.

- PAL Renewal – We are pleased to see that EPA wants permitting authorities to consider PAL levels at renewal at levels "to avoid penalizing a source for making voluntary emissions reductions". One of the greatest concerns of a party seeking a PAL is that, upon renewal, the PAL will be shrunk to an extent that the permittee can no longer be confident of staying under for the next ten years (recognizing how many ways the activities at the site and associated emissions can change). It is our experience that most PAL facilities want to create headroom under the PAL through voluntary emissions reductions. Most do. However, they do this with some degree of risk that the headroom will disappear when a lower PAL may be offered upon PAL renewal.

- PAL Termination – We are glad to see a pragmatic approach to PAL termination, which recognizes that the unexpected can arise and the original plan for a 10-year PAL may need to be altered in some fashion. We endorse this guidance, which defers to the permittee and the permitting authority, if termination is necessary.

- Monitoring Requirements for PALs – We are supportive of the language in the guidance which says that "sources may propose PAL monitoring that best aligns with their existing systems and procedures..." Because the PAL rules correctly focus on the importance of accurate emissions monitoring for demonstrating compliance with the PAL, parties may initially think that whatever is in place for monitoring needs to be changed. As the agency is aware, emissions monitoring methods under EPA source specific rules, state and local rules and Title V permits continue to be refined and improved. As a result, many facilities already have advanced emissions monitor systems. Having separate and redundant monitoring for the PAL would be wasteful and add no value.

- Emission Factor Adjustment – The guidance helps clarify when and how emission factors should be adjusted d and importantly indicates that sources and permitting authorities must avoid any situation where one factor is used to set the PAL and another is used to track compliance with the PAL. While the PAL rules indicate that an emissions factor may need to be "adjusted"

to account for uncertainty, there is no real context in the rule for such an adjustment.

- Validation Testing – Under the PAL rules, emissions factors for "significant" units are to be validated through emissions testing, if doing so is technically practical. There are a number of approaches to validation testing and the guidance provides some pragmatic options. They include testing only a sample of similar sources, utilizing data from similar sources at other sites and using vendor data. This direction will make it easier for the permittee and permitting authority to agree on a practical approach to this provision while conforming to its intent.

Intel supports the finalization and issuance of this guidance and appreciates the agency's continuing support of the use of PAL permits. We look forward to seeing this guidance in final form in the near future.

Sincerely,

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